

INTHEUNITEDSTATESDISTRICTCOURT
FORTHE DISTRICT OF MARYLAND

SEANJEFFREYTHOMPSON

*

Plaintiff,

*

v.

* CivilActionNo.: WDQ1:02-CV-1989

DETECTIVESTEPHENMARTIN , et al .*

Defendants.

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* * * * *

**MEMORANDUMINSUPPORTOF
PLAINTIFF'S MOTIONIN LIMINE
TO EXCLUDE EVIDENCE OF
HIS PRIOR CRIMINAL CONVICTIONS AND ARRESTS**

Plaintiff, Sean Jeffrey Thompson ("Mr. Thompson"), by his undersigned counsel submits the following Memorandum in Support of Plaintiff's Motion in Limine to Exclude Evidence of His Prior Criminal Convictions and Arrests.

INTRODUCTION

Defendants have indicated that they may seek to introduce at trial evidence of Mr. Thompson's prior criminal convictions, there reports generated in connection with his March, 2002 arrest and the Statement of Probable Cause created in connection with that arrest. Mr. Thompson's convictions, arrests, and related documents are not relevant to any fact of consequence in this case. Additionally, asset for the below, such must be excluded because any minimal probative value that they may have is substantially outweighed by the likelihood of unfair prejudice.

BACKGROUND

Mr. Thompson has asserted claims of assault, battery, and deprivation of constitutional rights pursuant to 42 U.S.C. § 1983. The claims assert that on March 28th and March 29th 2002, specifically, Mr. Thompson alleges that Detective Stephen Martin committed assault and battery against him in an interrogation room at the Southwest District office of the Baltimore City Police Department. Other Baltimore City Police Officers were aware of Martin's actions, but failed to intercede. The officers were aware of Mr. Thompson's need but denied him access to medical attention. As a result of Defendant Martin's conduct and that of the other officers, Plaintiff T. Thompson suffered substantial damages, and permanent pain and suffering, his ankle, humiliation, and mental distress. As a result of Defendant Martin's actions and those of the other officers, Thompson was deprived of his constitutional rights under the Fifth and Fourteenth Amendments and 42 U.S.C. § 1983.

Significantly, the Defendants' defense in this case is that the alleged altercation between Mr. Thompson and Detective Martin simply never happened. The assault occurred in an interrogation room, not in the context of Mr. Thompson's arrest. There is no assertion that physical force was reasonable or necessary because it caused the Defendants to believe that Mr. Thompson had committed a crime.

Mr. Thompson has several criminal convictions, including that which has led to his current incarceration. None of the related crimes involved a sane element of dishonesty or false statement.

ARGUMENT

I. Mr.Thompson's Prior Convictions and Arrests are not admissible under the Federal Rules of Evidence.

Mr.Thompson's prior convictions, arrest records, and the Statement of Probable Cause created in connection with his March, 2002 arrest are not relevant and thus are not admissible under the Federal Rules of Evidence. Federal Rule "having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Fed.R.Evid.401. Rule 402 states that evidence which is not relevant is not admissible." Fed.R.Evid.402. In this case, Mr Thompson's convictions and arrests, and whether or not there was probable cause for those at the interrogation room and as to the conduct of the room, and thus are not admissible under Federal Rule 402.

II. Even if they had some relevance, Mr.Thompson's convictions are not admissible because their minimal probative value is substantially outweighed by their prejudicial effect.

Federal Rule of Evidence 403 provides that relevant evidence "may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by consideration of undue delay, waste of time, or needless presentation of cumulative evidence." Fed.R.Evid. 403. When balancing probative value against prejudicial effect, Courts have examined among other factors the impeachment value of the prior crime and the degree of similarity between the past crime and the charged crime.⁴ Jack B. Weinstein & Margaret A. Berger, *Weinstein's Federal Evidence*, § 609.05[3][a] (2d. Mathew Bender 2004).

Mr.Thompson'sconvictionsandthefactsrelating totheassociatedcrimesarenot admissibleundertheFederalRuleofEvidence403b becausetheirminimalprobativevalueis substantiallyoutweighedbytheirprejudicialeffec t.Courtshaverecognizedthatwhen,likein Mr.Thompson'ssituation,convictionsarenotrelat edtoveracity,theirprejudicesubstantially outweighstheirminimalimpeachmentvalue.UnitedS tatesv.Beahm,664F.2d414,419(4thCir. 1981).Prejudiceconcernssimilartothoseinvolv edinadmittingsimilarpastcrimes,have weighedheavilyincaseswhere,asinthiscase,th eplaintiffisaconvictedfelon.Forinstance, priorassaultconvictionsinSection1983excessi veforecasewerenotadmissible"becausethe jurymayimproperlyinferthat,basedontheprior conviction,thplaintiffinstigatedthe incident."Danielsv.Loizzo,986F.Supp.245,251(S.D.N.Y.1997).Therefor e,Mr. Thompson'scriminalconvictionsandthefactssurro undingthosocrimeswouldmisleadand confusethejuryandprovidelittleinsightintoMr .Thompson'spropensitytotellthetruth.Under thesecircumstances,Mr.Thompson'scriminalconvic tionsandthefactsrelatingtothemshould notbeadmittedbecausetheirprobativevalueissu bstantiallyoutweighedbytheirprejudicial effect.

CONCLUSION

Fortheforegoingreasons,Plaintiff,SeanJeffrey Thompson,respectfullyrequeststhatthe CourtissueanOrder:

- A. GrantingPlaintiff'sMotioninLimine;
- B. Excludinganyevidence,includingsubpoenaed documents,dir ectandcrossexaminationquestions andtestimonyofwitnesses,relatingtothefactth atSeanJeffreyThompsonhasbeen convictedorarrestedoranycrimeand/orthefactsrelatingtothosocrimes,

including without limitation the arrest records and Statement of Probable Cause relating to his March, 2002 arrest;

C. Prohibiting Defendants from referring during the argument to the fact that Mr. Thompson has been convicted of any crime or to the facts relating to any crime; and

D. Granting such other and further relief as justice and equity require.

Dated: March 3, 2004

/s/
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